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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,946	12/17/1999	STUART WRIGHT	CS1062#SP	9569
7590	02/05/2004		EXAMINER	
BRUCE S SHAPIRO TW199 PATENT DEPARTMENT THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD TOWSON, MD 21286			RACHUBA, MAURINA T	
			ART UNIT	PAPER NUMBER
			3723	
			DATE MAILED: 02/05/2004	
			27	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/465,946	WRIGHT, STUART
	Examiner M Rachuba	Art Unit 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 November 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 9-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 9-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 9-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The newly added limitation "with the blade for sawing passing through *an aperture in the sole plate...*" is new matter, as applicant has not previously disclosed that the sole plate has an aperture.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-17, as broadly claimed, are finally rejected under 35 U.S.C. 103(a) as obvious over Bourke '293 in view of Bradley 1,035,524. '293 discloses a power tool having a motor housed within a body, the body comprising the drill body and the adapter body, as the adapter when attached to the drill body forms a unitary body and as the adapter cannot function as disclosed without being a unitary part of the drill body,

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or any other motor housing, the motor arranged to power a reciprocating shaft housed within the unitary body, on which a blade is mounted, and a pivotable sole plate, the plate pivoting between a guide position and a non-guide position when the sole plate is positioned in a recess in the body. '293 does not disclose that the sole plate has an aperture. '830, figures 1 and 6, clearly teaches, in a reciprocating saw, that it is known to provide a body, 10, a motor in the body, the motor arranged to power a reciprocating shaft housed within the body adjacent the motor on which a blade for sawing may be mounted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided '293 with the '524 to teach, in a reciprocating saw, a sole plate 29 that is pivotable and in which the blade is mounted to pass through the structure of the sole plate, and not just the plane of the sole plate, thereby providing a larger "foot print" for the sole plate and a more stable guide for the saw

Response to Arguments

5. Applicant's arguments with respect to claims 9-17 have been considered but are moot in view of the new ground(s) of rejection. It is the examiner's position that, as most broadly claimed by applicant, the drill body and attachment body disclosed by '293 must form a unitary body to function, and that it is the unitary body that encloses the motor, and reciprocating shaft. Applicant has had ample opportunity to amend the claims to further limit the structure of the overall tool, and to overcome the rejections based on '293. As currently set forth, the claims do not require any structure limiting the body that is not shown by '293. Note also that applicant has not disclosed any structure

of the sole plate, other than the pivot. To now claim that the blade passes through an aperture is new matter not supported by the specification, drawings or previous claims.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning the content of this communication or earlier communications from the examiner should be directed to M. Rachuba whose telephone number is (703) 308-1361. The examiner can normally be reached on Monday through Friday from 8:30 AM to 4:00 PM. Any inquiries concerning other than the content of this and previous communications, such as missing references or filed papers not acknowledged, should be directed to the Customer Service Representative, Tech Center 3700, (703) 306-5648.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail, can be reached on (703) 308-2687.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

M. RACHUBA
PRIMARY PATENT EXAMINER
ART UNIT 3723

mtr
February 4, 2004

